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In The Supreme Court of the United States

HANY E. WILLIAM,

Petitioner,

v.

IMMIGRATION AND NATURALIZATION SERVICE,

Respondent.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

---

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

Is a motion to reopen timely filed if it is filed within ninety days of the Board of Immigration Appeals' denial of a motion to reconsider?

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PETITION FOR WRIT OF CERTIORARI

Hany E. William, Petitioner, respectfully prays that the Supreme Court issue a writ of certiorari to review the Fifth Circuit's judgment in this case.

OPINIONS BELOW

The Fifth Circuit's opinion, *William v. INS*, 217 F.3d 340 (5th Cir. 2000), is on pages 1-7 of the Appendix. The Board's denial of William's Motion to Reopen, *In re William*, A73-122-128 (BIA May 21, 1999), is on pages 8-9 of the Appendix. The Board's denial of William's Motion to Reconsider, *In re William*, A73-122-128 (BIA April 30, 1998), is on pages 10-13 of the Appendix. The Board's dismissal of William's appeal, *In re William*, A73-122-128 (BIA September 24, 1997), is on pages 14-22 of the Appendix.

JURISDICTION

The Fifth Circuit entered its judgment in this case on July 17, 2000. *William v. INS*, 217 F.3d 340 (5th Cir. 2000). In compliance with Supreme Court Rule 13.1, this petition has been filed within ninety days of the entry of judgment. Under 28 U.S.C. § 1254(1), the Supreme Court has jurisdiction to review the Fifth Circuit's judgment.

REGULATION INVOLVED IN THIS CASE

8 C.F.R. § 3.2(c)(2) (1997) states:

> Except as provided in paragraph (c)(3) of this section, a party may file only one

> motion to reopen deportation or exclusion proceedings (whether before the Board or the Immigration Judge) and that motion must be filed no later than 90 days after the date on which the final administrative decision was rendered in the proceeding sought to be reopened, or on or before September 30, 1996, whichever is later. Except as provided in paragraph (c)(3) of this section, an alien may file only one motion to reopen removal proceedings (whether before the Board or the Immigration Judge) and that motion must be filed no later than 90 days after the date on which the final administrative decision was rendered in the proceeding sought to be reopened.

STATEMENT OF THE CASE

Hany E. William ("William") was born in Egypt and lawfully entered the United States on a student visa. William is married to a United States citizen. Based on a charge that William did not comply with the conditions of his nonimmigrant status, an Immigration Judge ordered William deported to Egypt on July 27, 1995. The Immigration Judge denied William's application for asylum and withholding of deportation. On September 24, 1997, the Board of Immigration Appeals (the "Board") dismissed William's appeal of the Immigration Judge's decision.

William filed a Motion to Reconsider with the Board on October 22, 1997. On April 30, 1998, the Board denied William's Motion to Reconsider. William filed a Motion to Reopen with the Board on July 28, 1998. On May 21, 1999, the Board denied William's Motion to Reopen solely because the Board believed that William's Motion to Reopen was untimely. On June 21, 1999, William filed a Petition for Review with the Fifth Circuit. On July 17, 2000, the Fifth Circuit affirmed the Board's May 21, 1999 order.

The Fifth Circuit had jurisdiction to review the Board's May 21, 1999 denial of William's Motion to Reopen because § 309(c)(4) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Division C of the Omnibus Appropriations Act of 1996 (H.R. 3610), Pub. L. No. 104-208, 110 Stat. 3009 (1996) (hereinafter "IIRAIRA") states:

> (C) the petition for judicial review must be filed not later than 30 days after the date of the final order of exclusion or deportation;
>
> (D) the petition for review shall be filed with the court of appeals for the judicial district in which the administrative proceedings before the special inquiry officer or immigration judge were completed.

Because the Board's denial of a motion to reopen is a final order of deportation, the Fifth Circuit had jurisdiction to review the Board's denial of William's Motion to Reopen. *See Stone v. INS*, 115 S. Ct. 1537, 1544 (1995) ("Upon denial of reconsideration, the petitioner would file a separate petition to review that second final order"); *Kalaw v. INS*, 133 F.3d 1147, 1150 n.4 (9th Cir. 1997) ("The phrase 'final order of deportation' also includes a BIA denial of a motion to reopen deportation proceedings"); *Ka Fung Chan v. INS*, 634 F.2d 248, 252 (5th Cir. Jan. 1981) ("A denial of a motion to reopen deportation proceedings is a final order of deportation reviewable in the Court of Appeals under 8 U.S.C. § 1105a").

REASONS FOR GRANTING THIS PETITION

I. 8 C.F.R. § 3.2(c)(2) STATES THAT A MOTION TO REOPEN MUST BE FILED WITHIN NINETY DAYS OF THE **FINAL** ADMINISTRATIVE DECISION IN THE PROCEEDING SOUGHT TO BE REOPENED

The Board of Immigration Appeals (the "Board") denied William's Motion to Reconsider on April 30, 1998. *William v. INS*, 217 F.3d 340, 341 (5th Cir. 2000). Even though William's Motion to Reopen was filed with the Board less than ninety days later, the Board dismissed William's Motion to Reopen as untimely. *Id.*

A motion to reopen "must be filed no later than 90 days after the date on which the **final** administrative decision was rendered in the proceeding sought to be reopened." 8 C.F.R. § 3.2(c)(2) (emphasis added). The plain meaning of "final" is "last." The American Heritage Dictionary of the English Language 492 (New College ed. 1976). At the time William filed his Motion to Reopen, the Board's denial of his Motion to Reconsider was the last administrative decision in his case. Because William's Motion to Reopen was filed within ninety days of the last administrative decision, William's Motion to Reopen was timely filed under the plain meaning of 8 C.F.R. § 3.2(c)(2).

A court does not defer to an agency's interpretation of a regulation if "an alternative reading is compelled by the regulation's plain language . . . ." *Thomas Jefferson Univ. v. Shalala*, 114 S. Ct. 2381, 2386 (1994) (internal quotation marks omitted). Because the plain language of 8 C.F.R. § 3.2(c)(2) shows that William's Motion to Reopen was timely filed, no deference should be given to the Board's legal conclusion that William's Motion to Reopen was untimely.

In reviewing the Board's denial of William's Motion to Reopen, the Fifth Circuit stated:

> William's petition for review presents an issue of first impression: whether the decision in William's original appeal to the BIA, as distinguished from the subsequent denial of his motion to reconsider, was the "final administrative decision . . . in the proceeding to be reopened." If the dismissal of his original appeal qualifies, then his motion to reopen was untimely. **But if the denial of his motion to reconsider is the final decision under § 3.2(c)(2), the motion to reopen was timely**.

William v. INS, 217 F.3d 340, 342 (5th Cir. 2000) (emphasis added).

The Fifth Circuit agreed with the argument by

the Immigration and Naturalization Service (INS) that

> [B]ecause William's motion to reopen should relate to "the proceeding to be reopened," it is the underlying deportation decision, and not the denial of the motion to reconsider, that is being challenged. This is so because William seeks to introduce new evidence that he contends will affect his deportation — i.e., that his wife is going to become a citizen.
>
> This evidence could not be introduced in a proceeding for a motion to reconsider, the INS notes, because that type of motion challenges only the legal analysis employed by the immigration judge. The deportation proceeding is the proper forum for this new evidence, because there the immigration judge can take into account any additional factors supporting discretionary relief from deportation. That is to say, because an alien who seeks to introduce new evidence can reopen only a proceeding that once was open for the receipt of evidence, the motion to reopen must look back to an evidentiary proceeding rather than to the denial of reconsideration.

William, 217 F.3d at 342.

None of this reasoning is relevant to

determining the deadline for filing a motion to reopen and **none** of this reasoning is based on the plain language of 8 C.F.R. § 3.2(c)(2). The Fifth Circuit's reasoning relates to the purpose of a motion to reopen, **not** to the deadline for filing a motion to reopen. The deadline for filing a motion to reopen is determined by the **plain language** of 8 C.F.R. § 3.2(c)(2). *See KCMC, Inc. v. FCC*, 600 F.2d 546, 552 (5th Cir. 1979) ("We approach the issue at hand by noting that, in construing a regulation, we must employ the rules of construction generally applicable to statutes. Thus, where the language selected by the drafters is clear and unequivocal, the courts are bound to give effect to the **plain meaning** of the chosen words and no duty of interpretation arises") (citation omitted) (emphasis added); *In re H-N-*, Int. Dec. 3414 (BIA 1999) ("If the statutory language is clear, that is the end of the inquiry, as Immigration Judges and this Board, as well as the courts, must give effect to the unambiguously expressed intent of Congress. **The same is true of regulations**. It is assumed that the legislative purpose is expressed by the ordinary or **plain meaning** of the words used") (emphasis added).

The Fifth Circuit stresses that a "motion to reopen must look back to an evidentiary proceeding." *William*, 217 F.3d at 342. Yet, the Board's September 24, 1997 dismissal of William's appeal — which the Fifth Circuit believes started a single ninety-day clock for William's Motion to Reopen — was an appellate proceeding, not an evidentiary proceeding. In fact, in

dismissing William's appeal, the Board refused to consider new evidence submitted by William during the appeal:

> We emphasize in this regard that while evidence has been proffered on appeal, there has been no showing that such evidence could not have been presented before the Immigration Judge. We therefore find no basis for a remand of the record. *See Matter of Coelho*, 20 I. & N. Dec. 464 (BIA 1992); *see also Matter of Fedorenko*, 19 I. & N. Dec. 57, 74 (BIA 1984) ("**The Board is an appellate body whose function is to review, not to create, a record**").

In re William, A73-122-128 (BIA September 24, 1997) (emphasis added) (Appendix at 19). As indicated in the above quotation, the Board does not conduct evidentiary proceedings. For example, if William's Motion to Reopen had been granted, the Immigration Judge, rather than the Board, would have heard testimony from William and his wife in connection with his application for adjustment of status.

If the Fifth Circuit's reasoning is accepted, then the proceeding that William's Motion to Reopen seeks to reopen is the July 27, 1995 proceeding at which the Immigration Judge ordered William deported because that was William's last evidentiary proceeding. Yet,

even the Fifth Circuit does not believe that William's Motion to Reopen needed to have been filed within ninety days of July 27, 1995. *William*, 217 F.3d at 341-42. 8 C.F.R. § 3.2(c)(2) does **not** state that a motion to reopen must be filed within ninety days of **the first or second** administrative decision in the proceeding sought to be reopened. Rather, 8 C.F.R. § 3.2(c)(2) states that a motion to reopen must be filed within ninety days of the **final** administrative decision in the proceeding sought to be reopened. Neither the July 27, 1995 evidentiary proceeding at which William was ordered deported, nor the Board's September 24, 1997 dismissal of William's appeal, was the **final** administrative decision in the proceeding sought to be reopened. At the time William's Motion to Reopen was filed, the Board's April 30, 1998 denial of William's Motion to Reconsider was the final administrative decision in the proceeding sought to be reopened.

In construing 8 C.F.R. § 3.2(c)(2), the Fifth Circuit held:

> Although William's construction is not unreasonable, neither is the INS's, because "final administrative decision" refers to "the proceeding sought to be reopened." It is possible that, as William suggests, this phrase refers to the broader deportation process, but we cannot say that the INS's determination that the phrase refers to the particular stage of the process sought to be

> reopened is plainly erroneous or inconsistent with the regulation.

William, 217 F.3d at 343 (internal quotation marks omitted).

The Fifth Circuit's reasoning leads to the conclusion that "the proceeding sought to be reopened" was William's July 27, 1995 proceeding because that was William's final evidentiary proceeding, that was the proceeding at which William was ordered deported, and the Immigration Judge's order of deportation in that proceeding is what William ultimately seeks to avoid if his Motion to Reopen is granted.

Because the Fifth Circuit views the Board's September 24, 1997 dismissal of William's appeal as the start of a single ninety-day window for William's Motion to Reopen, the Fifth Circuit must consider the Board's September 24, 1997 decision to be a decision "in" the proceeding sought to be reopened, given that 8 C.F.R. § 3.2(c)(2) states that a motion to reopen must be filed within ninety days of the final administrative decision "in" the proceeding sought to be reopened. However, if the Board's September 24, 1997 dismissal of William's appeal is considered a decision "in" the proceeding sought to be reopened — the July 27, 1995 evidentiary proceeding at which William was ordered deported — then the Board's April 30, 1998 denial of William's Motion to Reconsider also must be considered a decision in the proceeding sought to be

reopened. There is no rational explanation for why only one of these two decisions by the Board should be considered a decision "in" the proceeding sought to be reopened. Both of these decisions by the Board were part of William's deportation proceeding. In fact, the heading of each decision states: "IN DEPORTATION PROCEEDINGS." (Appendix at 10, 14.)

Moreover, the Board previously has used the terms "first proceeding" and "second proceeding" to refer to situations in which the "first deportation proceeding" was terminated and a "second deportation proceeding" was later initiated, rather than to describe stages within a single deportation proceeding. *See Matter of Balderas*, 20 I. & N. Dec. 389, 393 (BIA 1991) ("[W]e hold that a conviction which has once been relied upon in a charge of deportability may be alleged as one of the 'two crimes involving moral turpitude' in a second proceeding, even though the first proceeding was terminated by a grant of relief under section 212(c) of the Act, where the second crime alleged is a subsequent conviction or a conviction that was not disclosed in the prior proceeding"). In other words, the term "proceeding" refers to all of the stages within the deportation process. *See In re W-F-*, 21 I. & N. Dec. 503, 506 n.3 (BIA 1996) ("[D]eterminations of deportability and those regarding relief from deportation **are part of one single deportation proceeding**") (emphasis added). Thus, the Board's denial of William's Motion to Reconsider was part of William's "one single deportation proceeding," which

means that, at the time William's Motion to Reopen was filed, the Board's denial of William's Motion to Reconsider was the final administrative decision in the "one single deportation proceeding" sought to be reopened. It should be noted that the term "proceeding" also has a broad meaning in other contexts. *See New York Gaslight Club, Inc. v. Carey*, 447 U.S. 54, 62-63 (1980) ("Indeed, throughout Title VII the word 'proceeding,' or its plural form, is used to refer to all the different types of proceedings in which the statute is enforced, state and federal, administrative and judicial").

The Fifth Circuit states that "the denial of a motion to reconsider cannot be 'reopened' where it was never open to the type of new evidence William seeks to introduce." *William*, 217 F.3d at 342. The Fifth Circuit misstates what is reopened when a motion to reopen is granted. When a motion to reopen is granted, "proceedings," rather than a "decision," are reopened. *See* 8 C.F.R. § 3.2(c) ("A motion to reopen **proceedings** shall state . . . . A motion to reopen **proceedings** for the purpose . . . . A motion to reopen **proceedings** shall . . . .") (emphasis added). A motion to reopen seeks to reopen "proceedings," not a decision. If this were not the case, § 3.2(c) would refer to a motion to reopen as a "motion to reopen a decision," rather than as a "motion to reopen proceedings." If William's Motion to Reopen had been granted, his deportation proceedings would have been reopened.

In focusing on the phrase "proceeding sought to be reopened," the Fifth Circuit ignores the fact that 8 C.F.R. § 3.2(c)(2) states that a motion to reopen must be filed within ninety days of the **final** administrative decision in the proceeding sought to be reopened. 8 C.F.R. § 3.2(c)(2) does **not** state that a motion to reopen must be filed within ninety days of **the first or second** administrative decision in the proceeding sought to be reopened. By ignoring the plain meaning of 8 C.F.R. § 3.2(c)(2), the Fifth Circuit "has so far departed from the accepted and usual course of judicial proceedings, or sanctioned such a departure by [the Board], as to call for an exercise of this Court's supervisory power," Sup. Ct. R. 10(a).

II. CONGRESS HAS ABANDONED THE PHRASE "RENDERED IN THE PROCEEDING SOUGHT TO BE REOPENED"

The Fifth Circuit's holding is based entirely on the regulation's use of the phrase "rendered in the proceeding sought to be reopened." *See William*, 217 F.3d at 342 ("[I]f the denial of his motion to reconsider is the final decision under § 3.2(c)(2), the motion to reopen was timely. . . . [W]hile the regulation's use of 'final administrative decision' is facially **unambiguous**, it invites, in the context of the next phrase, 'rendered in the proceeding sought to be reopened,' at least two reasonable interpretations") (emphasis added). A fair reading of the Fifth Circuit's opinion reveals that the Fifth Circuit would have held that William's Motion to Reopen was timely filed if the phrase "rendered in the proceeding sought to be reopened" had been deleted from 8 C.F.R. § 3.2(c)(2). In a sense, this phrase has now been deleted by Congress. Section 240(c)(6)(C)(i) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1230(c)(6)(C)(i), which was enacted after 8 C.F.R. § 3.2(c)(2) was promulgated, states: "[T]he motion to reopen shall be filed within 90 days of the date of entry of a final administrative order of removal." There is no language in this provision similar to the phrase "rendered in the proceeding sought to be reopened."

The Fifth Circuit acknowledges that *Stone v. INS*, 115 S. Ct. 1537 (1995), held that the Board's denial of a motion to reconsider is a final order of deportation. *William*, 217 F.3d at 342. Thus, if the Fifth Circuit had applied INA § 240(c)(6)(C)(i) to William's case, the Fifth Circuit would have ruled that William's Motion to Reopen was timely because his Motion to Reopen was filed within ninety days of a final order of deportation. A statutory provision trumps a previously promulgated regulation, so, if the Fifth Circuit had applied INA § 240(c)(6)(C)(i) to William's case, the Fifth Circuit would not have considered the regulation's use of the phrase "rendered in the proceeding sought to be reopened."

Because William's deportation proceedings began before April 1, 1997, and because the Board's denial of William's Motion to Reopen occurred after October 30, 1996, the transitional rules of IIRAIRA apply to William's case and INA § 240(c)(6)(C)(i) does not apply to William's case. IIRAIRA § 309(c)(1), (c)(4). However, INA § 240(c)(6)(C)(i) should still be considered in this case because of the confusion the Fifth Circuit's decision is causing. The deadline for filing a motion to reopen is now set by INA § 240(c)(6)(C)(i), rather than by 8 C.F.R. § 3.2(c)(2). The plain meaning of INA § 240(c)(6)(C)(i) is that the deadline for filing a motion to reopen is ninety days after a final order of deportation. Yet, a reader of the Fifth Circuit's opinion might not be sure of the deadline for filing a motion to reopen, given the Fifth Circuit's failure to apply the plain meaning of 8 C.F.R. §

3.2(c)(2) in this case. In fact, it is likely that the INS and the Board will erroneously assert that the Fifth Circuit's opinion in this case stands for the proposition that, even under INA § 240(c)(6)(C)(i), a motion to reopen filed within ninety days of the Board's denial of a motion to reconsider is untimely.

The Supreme Court can end this confusion by granting this petition for a writ of certiorari and explaining that there actually is no conflict between INA § 240(c)(6)(C)(i) and 8 C.F.R. § 3.2(c)(2) because both provisions state that the deadline for filing a motion to reopen is ninety days after the **final** administrative decision. In fact, Congress' abandonment of the phrase "rendered in the proceeding sought to be reopened" shows that this phrase was not intended to play a significant role in establishing the deadline for the filing of a motion to reopen.

Supreme Court Rule 10(c) states that in deciding whether to grant a petition for a writ of certiorari, the Court considers whether "a United States court of appeals has decided an important question of federal law that has not been, but should be, settled by this Court." The Supreme Court has not determined the deadline for filing a motion to reopen. This is an important question of federal law that should be settled by the Court because the deadline for filing a motion to reopen is an issue every time a motion to reopen is filed. The confusion caused by the Fifth Circuit's opinion makes matters even worse. Because the Fifth

Circuit is the only court that has made a ruling concerning the deadline for filing a motion to reopen, people around the country are unable to refer to any other authority on this issue. If the Court does not grant this petition, the Fifth Circuit's erroneous pronouncements regarding the deadline for filing a motion to reopen will be the only "guidance" on this issue.

III. IT IS A RULE OF CONSTRUCTION THAT IDENTICAL WORDS USED IN DIFFERENT PARTS OF A STATUTE OR REGULATION HAVE THE SAME MEANING, SO THE FACT THAT THE DENIAL OF A MOTION TO RECONSIDER IS A FINAL ADMINISTRATIVE DECISION IN CONNECTION WITH ONE PROVISION MEANS THAT THE DENIAL OF A MOTION TO RECONSIDER IS A FINAL ADMINISTRATIVE DECISION IN CONNECTION WITH OTHER PROVISIONS

As the Fifth Circuit acknowledges, *William*, 217 F.3d at 342, the Supreme Court has held that the Board's denial of a motion to reconsider is a final order of deportation. *See Stone v. INS*, 115 S. Ct. 1537, 1544 (1995) ("Upon **denial of reconsideration**, the petitioner would file a separate petition to review that **second final order**. . . . Because only '**final deportation order[s]**' may be reviewed, 8 U.S.C. § 1105a(a)(1), it follows by necessity that the provision requires for its operation the existence of **two separate final orders**, the petitions for review of which could be consolidated") (emphasis added) (alteration in original).

Courts have repeatedly held that the Board's denial of a motion to reopen is a final administrative decision. *Arrozal v. INS*, 159 F.3d 429, 434 n.3 (9th

Cir. 1998) ("Denials of motions to reopen deportation proceedings are final administrative decisions"); *Kalaw v. INS*, 133 F.3d 1147, 1150 n.4 (9th Cir. 1997) ("The phrase 'final order of deportation' also includes a BIA denial of a motion to reopen deportation proceedings"); *Sanchez-Marquez v. INS*, 725 F.2d 61, 62 (7th Cir.) (per curiam) ("The BIA's denial of a motion to reopen deportation proceedings is a final order of deportation . . . ."), *cert. denied*, 105 S. Ct. 128 (1984). Although these cases and *Stone* involve provisions other than 8 C.F.R. § 3.2(c)(2), "[i]t is a normal rule of statutory construction that identical words used in different parts of the same act are intended to have the same meaning." *Commissioner of Internal Revenue v. Keystone Consolidated Industries, Inc.*, 113 S. Ct. 2006, 2011 (1993) (citation and internal quotation marks omitted); *see also United Savings Ass'n v. Timbers of Inwood Forest Associates, Ltd.*, 108 S. Ct. 626, 630 (1988) ("A provision that may seem ambiguous in isolation is often clarified by the remainder of the statutory scheme — because the same terminology is used elsewhere in a context that makes its meaning clear . . . ."). Thus, the Board's denial of a motion to reconsider also must be considered a final administrative decision for purposes of 8 C.F.R. § 3.2(c)(2).

In other words, the phrase "final administrative decision" cannot have a meaning in one provision and have an entirely different meaning in another provision. That would conflict with the rule of construction — and

with what common sense says — that identical words used in different parts of a statute or regulation have the same meaning. Under this rule of construction, the phrase "final administrative decision" in 8 C.F.R. § 3.2(c)(2) encompasses, as it does in other provisions, the Board's denial of a motion to reconsider. Therefore, because William's Motion to Reopen was filed within ninety days of the Board's denial of William's Motion to Reconsider, William's Motion to Reopen was filed within ninety days of the final administrative decision.

IV. THE INS ERRONEOUSLY ASSERTS THAT POLICIES CONCERNING MOTIONS TO REOPEN ARE RELEVANT TO THE ISSUE OF WHETHER WILLIAM'S MOTION TO REOPEN WAS TIMELY FILED

In its brief to the Fifth Circuit, the INS argued: "In this case, the policy of disfavoring motions to reopen deportation proceedings should lead this Court to accord additional deference to the Board's decision." The INS is confusing the issue of whether a motion to reopen should be granted with the issue of whether a motion to reopen is timely. It might be appropriate for the Board to consider policies regarding motions to reopen in making the ultimate determination of whether to grant or deny a motion to reopen as a matter of discretion. However, policies concerning motions to reopen have nothing to do with the issue of whether William's Motion to Reopen was timely filed — that is a

question of law that involves the plain meaning of 8 C.F.R. § 3.2(c)(2).

In its brief to the Fifth Circuit, the INS also argued: "Congress has repeatedly expressed its opposition to allowing motions to reopen to delay deportation." The INS is confusing the issue of whether an alien should be granted a stay of deportation as a result of a pending motion to reopen with the issue of whether William's Motion to Reopen was timely. The filing of William's Motion to Reopen did not entitle him to a stay of deportation. 8 C.F.R. § 3.2(f). Thus, the filing of William's Motion to Reopen did not allow him to "delay deportation."

V. CONCLUSION

For the foregoing reasons, Hany E. William respectfully requests that the Court grant this petition for a writ of certiorari.

Respectfully submitted,

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